WPP-47 / 2009-2011

ಕರ್ನಾಟಕ ರಾಜ್ಯಪತ್ರ

ಅಧಿಕೃತವಾಗಿ ಪ್ರಕಟಿಸಲಾದುದು

ಸಂಪುಟ ೧೪೬	ಬೆಂಗಳೂರು, ಗುರುವಾರ, ಸೆಪ್ಟೆಂಬರ್ ೧೫, ೨೦೧೧, (ಭಾದ್ರಪದ ೨೪, ಶಕ ವರ್ಷ ೧೯೩೩)	ಸಂಚಿಕೆ ೩೭

ಭಾಗ – ೪

ಕೇಂದ್ರದ ವಿಧೇಯಕಗಳು ಮತ್ತು ಅವುಗಳ ಮೇಲೆ ಪರಿಶೀಲನಾ ಸಮಿತಿಯ ವರದಿಗಳು, ಕೇಂದ್ರದ ಅಧಿನಿಯಮಗಳು ಮತ್ತು ಅಧ್ಯಾದೇಶಗಳು, ಕೇಂದ್ರದ ಸರ್ಕಾರದವರು ಹೊರಡಿಸಿದ ಸಾಮಾನ್ಯ ಶಾಸನಬದ್ಧ ನಿಯಮಗಳು ಮತ್ತು ಶಾಸನಬದ್ಧ ಆದೇಶಗಳು ಮತ್ತು ರಾಷ್ಟ್ರಪತಿಯವರಿಂದ ರಚಿತವಾಗಿ ರಾಜ್ಯ ಸರ್ಕಾರದವರಿಂದ ಪುನಃ ಪ್ರಕಟವಾದ ಆದೇಶಗಳು

ELECTION COMMISSION OF INDIA

Nirvachan Sadan, Ashoka Road, New Delhi-110001

No. 76/KT-HP/2009

Dated: 7th June, 2011

17 Jyaistha 1933 (Saka)

ORDER

Whereas, the Election Commission of India is satisfied that each of the contesting candidate specified in column 3 of the Table below at the General Election to the Lok Sabha, 2009 from Karnataka Parliamentary Constituency of specified in column 2 against their names have filed to lodge the account of their election expenses in manner as shown in column 4 of the said Table as required by the Representation of the People Act, 1951 and the Rules made there under ;

And whereas, said candidates have either not furnished any reason or explanation for the said failure even after receiving Election Commission's notice, and the Election Commission is satisfied that they have no good reason or justification for the said failure;

Now, therefore, in pursuance of section 10A of the said Act, the Election Commission hereby declares the persons specified in column 3 of the Table below to be disqualified for being chosen as and for being a member of either House of Parliament or the Legislative Assembly or Legislative Council of a State or Union Territory for a period of three years from the date of this order:-

PERSONNEL AND ADMINISTRATIVE REFORMS SECRETARIAT (ELECTIONS)

NOTIFICATION NO. DPAR O1 CHUANA 2008, BANGALORE, DATED 20TH JUNE, 2011

The accompanying Order No. 76/KT-HP/2009, dated : 7th June, 2011 of the Election Commission of India is published for general information.

By order and in the name of the Governor of Karnataka,

P. T. KULKARNI,

Deputy Chief Electoral Officer and

Ex-Officio Deputy Secretary to Govt.,

D.P.A.R. (Elections).

TABLE

Sl. No.	Particulars of Election	Sl. No. & Name of Parliamentary Constituency	Name & Address of Contesting Candidate	Reasons for Disquailfication
1	2	3	4	5
1.	General Election to Lok Sabha, 2009	27-Chickballapur	Sh. G. B. Muthukumar, S/o Dr. G. V. Balakrishnan, No. 552, 8th 'A' Main, M.I.G., 2nd Stage, Sector A New Town, Yelahanka, Bangalore, PIN-560064	Failed to lodge any account of his election expenses.
2.	General Election to Lok Sabha, 2009	27-Chickballapur	Sh. M. Ramesh, S/o. Muniyappa, No. 105, Meenakunte Hosur Village, Doddajala Post and Hobli, Bangalore North Taluk, Bangalore Rural District.	Failed to lodge any account of his election expenses.
3.	General Election to Lok Sabha, 2009	27-Chickballapur	Sh. Y. A. Siddalingegowda, S/o Anjinappa, Yalachagere Village, Kasaba Hobli, Nelamangala Taluk, Bangalore Rural District.	Failed to lodge any account of his election expenses.

By Order,

R. K. SRIVASTAVA,

PR. SECRETARY,

PR- 14 ELECTION COMMISSION OF INDIA

ELECTION COMMISSION OF INDIA

Nirvachan Sadan, Ashoka Road, New Delhi.

Dated : 20 June, 2011

Jyaistha 30, 1933 (Saka)

NOTIFICATION

No. 82/KT-LC/01/04/2011 - In pursuance of Section 106 of the Representation of the People Act, 1951 (43 of 1951), the Election Commission of India hereby publishes the order dated 24th December, 2010 of High Court of Karnataka at Bangalore dismissing the Election Petition No.1 of 2004 filed by Shri Babu Rao S/o Sh. Gundappa calling in question the election of Shri Basavaraj as a member of the Legislative Council of Karnataka from No.1 Bidar Local Authorities' Constituency.

IN THE HIGH COURT OF KARNATAKA, BANGALORE

DATED THIS THE 24th DAY OF DECEMBER, 2010

BEFORE

THE HON'BLE MRS. JUSTICE MANJULA CHELLUR

ELECTION PETITION No.1/2004

BETWEEN

Babu Rao s/o Gundappa
56 yrs.,
r/o Kitta, Kitta Post,
Basavakalyan Taluk,
BIDAR DISTRICT. ... PETITIONER

(By Sri. S.P.Shankar, Sr.Counsel for Sri. A.S. Mahesha, Advocate)

AND:

1. Basavaraj, s/o Havgeppa Patil
Major, Resident of H.No.174,
Near Bus Stand, Humnabad,
Bidar District.

2. Raghunath Rao Malkapure,
Major, Resident of H.No.9-13-24,
Near Hanudman Chowk,
Maailoor Road,
Bidar District.

3. Kalyan Rao Patil Nittur,
Major,
Resident of Shed No.C-9,
Behind Gandhi Gunj,
Industrial Area,
Bidar District.

4. Asadulla Buran Pasha,
Major,
Resident of Rekulgi,
Bidar Taluk, Bidar District. ... RESPONDENTS

(By Sri. D.N. Nanjunda Reddy, Sr.Counsel
for Sri. L.M. Chidanandayya, Adv. for R.1
Sri. Rajashekar B. Parappagel, Adv. for R.2
R-3 served
Service held sufficient in r/o R.4)

…

This election petition is filed under section 81 of the representation of People Act, 1951 by the petitioner - Candidate to the Biennial Election to the Karnataka Legislative Council from No.1 Bidar local Authorities Constituency 2003 held on 3.12.2003 through his Advocate Sri. A.S. Mahesha praying that this Hon'ble Court may be pleased to:

i) Call for records.

ii) Declare the election of the First Respondent to the 1-Bidar Local Authorities Constituency 2003 as a Member of the Karnataka Legislative Council as void and illegal for having committed corrupt practices:

iii) Declare the declaration made by the Returing Officer as contained in Annexure 'A' declaring the First Respondent as the elected candidate from 1-Bidar Local Authorities Constituency 2003 as a Member of the Karnataka Legislative Council as void on the ground of Section 100(d)(ii)(iv) of the Representation of People Act, 1951:

iv) Declare the petitioner as elected.

v) Grant such other relief as this Hon'ble Court may deem fit and proper in the circumstances of the case, in the interest of justice and equity.

This election petition having been heard, reserved and coming on for pronouncement or order, this day, the Court made the following:

ORDER

Heard arguments on both sides.

2. The brief facts that led to the filing of the present election petition are as under:

The petitioner and respondents 1 to 4 contested the elections for the Karnataka Legislative Council held on 1.12.2003 from 1-Bidar Local Authorities Constituency of 2003. The petitioner contested the election as Janata Dal (Secular) Candidate and first respondent contested the election as Indian National Congress candidate. Other respondents contested the elections of other political parties like BJP, All India Congress Progressive Janata Dal and as independent Candidates. In the counting on 3.12.2003, the first respondent got elected and was ultimately declared as successful candidate. The first respondent secured 1446 votes and the petitioner secured 980 votes.

According to the petitioner, the first respondent committed the following corrupt practices with the connivance of his supporters and agents.

a) He was holding the portfolio of power as sitting member of the Council of Ministers of Karnataka State at the relevant time. As he was incharge Minister for Bidar District, all the officials were under his control through out the election. This has resulted in exercise of undue influence of government officials as they not only induced several members of Zilla Panchayat, Gram, Town Panchayat and Municipal Council to vote only in favour of respondent, but also administered threats to the voters to vote in his favour. This undue influence has resulted in interference with the free exercise of electoral rights voting in favour of candidates of their choice. Therefore, it amounts to corrupt practice as per section 123(2) (a) (i) and (ii) of the Representation of People Act, 1951, (hereinafter, referred to as 'the Act').

b) After the date of withdrawal of nominations when the campaign commenced, the first respondent using his power held several meetings along with the Congress leaders and one such meeting was held on 21.11.2003 at 2.30pm at Backward Class Hostel in Bidar. Several members of Zilla Panchayat, Zilla Taluk, Gram Panchayat and so also Municipal Council members who are the voters were present. Important leaders of the Indian National Congress namely Mr. Mallikarjun Kharge, Mr. Dharam Singh, Mr. H.M. Revanna, Mr. Basavaraju Bulla and M.G. Mulley etc., were present. In the said meeting, while addressing the voters, the first respondent made statements, amounting to corrupt practices within the meaning of section 123(4) of the Act and the details of statements reads as follows:

(1) ಗುದಿಗೆ ಎಂತಹವನು ಎಂಬುದು ನನಗೆ ಚೆನ್ನಾಗಿ ಗೊತ್ತು. ಅವನು ನಕಲಿ ನೋಟಿನ ದಂಧೆ ಮಾಡಿ ಇಲ್ಲಿಗೆ ಬಂದಿದ್ದು ನನಗೆ ಗೊತ್ತಿಲ್ಲವೇ ಎಂದು ಬಸವರಾಜ ಪಾಟೀಲರು ಈ ಸಂದರ್ಭದಲ್ಲಿ ಗುದಿಗೆ ವಿರುದ್ಧ ಗಂಭೀರ ಆರೋಪ ಎಸಗಿದರು.

(2) ಗುದಿಗೆ ಎಂತಹವನು ಎಂಬುದು ನನಗೆ ಚೆನ್ನಾಗಿ ಗೊತ್ತು ಅವನು ನಕಲಿ ನೋಟಿನ ದಂಧೆ ಮಾಡಿ. ಇಲ್ಲಿಗೆ ಬಂದಿದ್ದು, ನನಗೆ ಗೊತ್ತಿಲ್ಲವೇ ಎಂದು ಬಸವರಾಜ ಪಾಟೀಲರು ಈ ಸಂದರ್ಭದಲ್ಲಿ ಗುದಿಗೆ ವಿರುದ್ಧ ಗಂಭೀರ ಅರೋಪ ಎಸಗಿದರು.

(3) ಬಾಬುರಾವ್ ಗುದಿಗೆ ಜಾಲಿನೋಟಿ, ಆರತಿ ಮೋಟರ್ ನಡೆಸಿ ಬಂದಿರುವುದನ್ನು ಯಾರು ಮರೆಯುವುದಿಲ್ಲ.

All these were published in several news papers having wide circulation within the constituency in question and the said statement had adverse effect in the election.

c) The above said statements were countered by the petitioner when it came to his knowledge and they were published in 'Samyuktha Karnataka', 'Hindu' on 26.11.2003. Even local papers published the said statements i.e., Bidar Ki Awaz and 'Hindi Nanak Times' etc., on 26.11.2003. Inspite of it, the first respondent did not defy the statements of him made on 21-11-2003.

d) Party leaders of Janata Dal have countered the statement of first respondent, when the statements of respondent No.1 brought to their notice. Such statements were published in 'Vijaya Karnataka' and 'Hindu' on 25-11-2003.

e) The meeting on 21-11-2003 was attended by one Mr. Khaji Aarshad Ali, Editor of 'Bidar Ki Awaz' and another person by name Siddaramaiah Swamy, Editor "Daman Hindi Daily' and other journalists. With the intention of affecting the election process of the petitioner such statements were made and the same has affected the election held on 1-12-2003.

On 1-12-2003 - the date of election, the son of first respondent by name Rajashekhar Patil who is also a sitting MLA from Humnabad resorted to goondaism and intimidated the voters apart from threatening the polling agents of the BJP and J.D (S) candidates and also their supporters at gun point at various polling booths, as they were coming within the Humnabad Legislative Assembly Constituency. He threatened the voters to vote in favour or first respondent his father and also threatened, the voters to show the ballot papers to whom they have voted at the gun point. When this was objected by the polling agents they scolded the polling agents abusing in vulgar language and threatened them with dire consequences. As they were 30 to 40 in number, being afraid of their lives, the voters did vote for first respondent. A complaint came to be lodged to the Returning Officer, Chief Election Commissioner, New Delhi. One Mr. Galappa- Polling Agent of BJP also lodged a complaint to the Superintendent of Police, Bidar apart from Returning Officer etc. A case was registered against the son of first respondent and 12 others. This also came to be published in 'Hindu' and 'Vijaya Karnataka' These tactics adopted by the son of first respondent also affected the prospects of the petitioner in the election. Therefore, it was a corrupt practice under section 123(2) of the Act.

On the date of polling, the concerned polling officers in all the above polling stations pertaining to the said constituency did not allow the polling agents of the petitioner into the polling booths till 9.00am inspite of producing valid authorisation to the Officers, which is a serious lapse on the part of polling officers. A complaint came to be lodged in this regard. The reason was that polling agent forms were signed by election agent whose signature did not tally with the specimen. Only after the complaint, all the polling agents were allowed to enter the booth only at 9.00am after the wireless message was flashed to Polling Officers. It was noticed that the voters had en mass voting between 8.00am to 9.00am itself in the absence of the polling agents of the petitioner in the polling booths. Therefore, the elections have to be declared as null and void. This was all done only to help the voters to vote in favour of respondent No.1, which is also a corrupt practice. This has prejudicially affected the prospects of the petitioner in election. According to the petitioner, the respondent using his office exercised undue influence on the polling officers and other government servants which amounts to corrupt practices.

With these averments, he has sought for declaring the election of the first respondent to the I-Bidar Local Authorities Constituency as member of Karnataka Legislative Council as void and illegal and to declare the declaration made by the returning officer declaring the first respondent as elected candidate as void and declare the petitioner as elected.

3. As against this, the respondents have filed detailed objection statement denying the averments in the election petition. According to them, the very relief sought against the respondent No. 1 is not maintainable in law and on facts as the election petition has not been filed in accordance with the provisions of section 100 of the Act, therefore, it is not maintainable. Section 80 and 81 of the said Act are relevant. Sub-section 1 of section 100 is very relevant. The provisions of sub-section 3 of section 81 was not complied as the election petition was not accompanied with as many copies as the respondents mentioned in the petition and they shall all be attested in his own signature. The concise statement of material facts alleging the corrupt

practice has to be made while disclosing the ground for corrupt practice. He also has to give the full statement of the names of the parties who committed the corrupt practices. The petition has to be filed and verified in the manner provided under Civil Code of Procedure as contemplated under section 83 of the said Act but the same was not done. No prescribed form in support of the allegations is made and form No.25 is the prescribed form for the purpose of complying with the provisions. The petition was not accompanied by the affidavit in the prescribed form.

In the copy of the election petition received by the respondent, there was no affidavit as contemplated under the Act, therefore, there is non-compliance of mandatory provisions. If the election petition given to the respondent is not a true copy of the petition, then also, the petition has to be thrown away at the thresh hold. Annexures and the verifications are not in accordance with Order 5 Rule 17 of CPC. Even otherwise all the allegations are incorrect without any substance.

Reading of the entire petition does not indicate allegations of bribery for filing the above election petition before this Court. Therefore, section 123 of the Act is not available. The reading of the entire petition does not disclose facts leading to undue influence or corrupt practice.

It is alleged, the petitioner being close to some of press people and for the reasons best known to them got published material, which is totally incorrect. Surprisingly, none of those materials are found in the national newspapers. Only some local papers have published the material. This would only indicate that those publications referred to in the petition are based on concoetion and imaginations.

With reference to the election to the Karnataka Legislative Council held on 3-12-2003, respondent No. 1 secured 1446 votes and the petitioner was far behind the first respondent and secured 980 votes, therefore, he was not elected. The first respondent is into politics since a long time. At no point of time any allegations of corrupt practice are made against him. The election in question was from the local bodies representing small percentage of voters and not a general election.

The respondent has never used unfair means using his power as a Member of the Council of Minister and no government official at Bidar was under his control. The elections are conducted by the Election Commission of India and the voters are from the local bodies who are the elected representatives of the people and distinct voters. They are not the common voters like others. Therefore, question of influencing anyone would not arise.

On the other hand, the petitioner is making false statements deliberately which has resulted in damaging the name and reputation of the respondent No.1. None of the voters have complained any such interference or threats alleged by the petitioner. These baseless allegations undermine the name of the first respondent.

Though a meeting was conducted on 21-11-2003 attended by several members of gram panchayat etc., the respondent has not made any statement, which amounts to corrupt practice especially the statement extracted in the election petition. The petitioner has made a false and deliberate statement against the respondent alleging that respondent has studied upto SSLC only whereas petitioner is a Graduate in Automobile Engineering. The respondent has made statements that the voters will not vote on the basis of degree but on the basis of the performance to the public at large. If the petitioner has countered the alleged statement of the first respondent, question of prejudicing the prospects of the petitioner in the election would not arise. None of the other allegations are within the knowledge of the first respondent regarding party limits of Janatha Dal in countering the statement.

The petitioner is put to strict proof of Khaja Arshad Ali and Siddaramaiahswamy attending the meeting on 21-11-2003. To the best knowledge of the respondent, none other journalists were present in the said meeting and it was the petitioner who made character assassination of the respondent regarding his educational qualification. The petitioner is a total stranger to the election process. The petitioner instead of taking steps to project himself as a good election candidate, has made false allegations against the respondent who is very popular amongst voters of local bodies.

The allegations that his son Rajshekar Patil resorted to illegal activities like goondaism etc., and threatened polling agents of Janatha Dal and BJP are all false. There was no complaint of any of the polling agent against the son of the respondent. His name was dragged with an intention to harm his reputation as well. The allegation that his son had gone to various polling booths with a gun and under threat secured the votes has undermined the name of the son of the first respondent and the first respondent. All allegations made against the first respondent and his son are denied. After investigating into the complaint made by Channamallappa Chakanalli, the police have filed 'B' report before the Jurisdictional Magistrate which would establish the falsity in the claim of the petitioner. The voters of Bidar more so, voters of local bodies are very diligent and intelligent voters. Therefore, no one can threaten and persuade them. The allegation that the polling agents were not allowed to enter the booth till 9.00 pm is also denied. If there is non-tallying of the authorisation, it is not within the knowledge of the respondent. Similarly the returning officer flashing the wireless message alleged etc., is not within the knowledge of the respondent. The allegation that the voters had en-massed votes between 8.00 a.m. to 9.00 p.m. is also absolutely false and baseless. Elections are done through electronic voting machine. Unless the concerned officer presses the button it does not work. There was no complaint that the election has not been held in free and fair manner. The agents of all political parties were present and their names were confirmed by the officials.

The petitioner after losing the election is desperately making attempt to make false and baseless allegations. The petitioner did not even pay the security deposit as required under section 117 of the Act. The payment of Rs. 2000/- was sent not in his name but in the name of his Advocate. Therefore, there is no compliance of section 117 of the Act. With these averments, he has sought for dismissal of these election petition.

4. On the basis of the above pleadings, the following issues are framed :

1. Whether the petitioner proves the commission of corrupt practices by the first respondent and his agents/supporters with the consent and knowledge of respondent No. 1 or his agents, by making false statements as mentioned in paragraphs 5(a) to 5(e) of the Election Petition?

2. Does the petitioner further prove, as alleged in paras 6 and 7, about the commission of the corrupt practices by first respondent like undue influence by first respondent as mentioned in the Election Petition?

3. Whether the election of returned candidate i.e., respondent No. 1 deserves to be declared as void and illegal ?

4. If so, whether the petitioner deserves to be declared as elected ?

5. What order ?

5. Parties have let in evidence. On behalf of petitioners PWs 1 to 5 are examined and on behalf of respondent No. 1 RW 1 the first respondent was examined. Several exhibits are marked. On perusal of the averments in the election petition, the allegations regarding commission of corrupt practices are alleged at paragraphs 5(a) to 5(e) 6 and 7 of the petition. Witnesses are examined to prove the allegations regarding commission of corrupt practices.

6. PW 1 is none other than the petitioner and he refers to averments in the petition. In an election petition charge of corrupt practices is required to be proved like that of a criminal charge and the standard of proof is also like that of a criminal charge. This is so, because the consequences are serious as the returned candidate will not lose the seat but he will also incur disqualification from contesting elections which may extend up to 6 years. Therefore, an election petition cannot be set at naught on flimsy grounds. The allegation of corrupt practices has to be proved beyond reasonable doubt and principles of preponderance of probabilities would not apply. An election petition has to contain the concise statement of material facts on which the petitioner relies. It also should disclose full particulars of corrupt practices indicating the name of the persons alleged to have committed such corrupt practices, the date and the place of commission as well. The petition has to be accompanied by an affidavit in the

prescribed form 25 to make the election petition as a petition filed in accordance with law. On perusal of the records it is noticed that an affidavit is filed but it is not in the prescribed form no. 25.

7. Learned Counsel for the respondents relies upon the following decisions:

1. Samanth N. Balakrishna -vs- George Fernandex and others - (1969) 3 SCC 238;
2. Rahim Khan -VS- Khurshid Ahmed and others - AIR 1975 SC 290;
3. Younus Kunj -vs- R.S. Unni - AIR 1984 SC 960 (Para 6);
4. Manmohan Kalia -vs- Shri Yash - AIR 1984 SC 1161 ;
5. Surinder Singh -vs- Hardial Singh - AIR 1985 SC 89; and
6. Gajanan Krishnaji Bapat -vs- Dattaji Ragjpbako Meghe - (1995) 5 SCC *347*

The gist of the above decisions is to the effect that facts which constitute the corrupt practice must be stated and the fact must be co-related to one of the heads of corrupt practice. Just as a complaint without disclosing the proper cause of action cannot be said to be a good complaint, so also an election petition without the material facts relating to a corrupt practice is no election petition at all. The entire and complete cause of action in the petition must be in the shape of material facts, the particulars being the further information to complete the picture. The material facts would show the ground of corrupt practice and the complete cause of action and the particulars will give the necessary information to present a full picture of the case of action. The corrupt practices must be specifically pleaded and proved. Election once held is not to be treated in a light hearted manner and defeated candidate should not get away by filing election petition on non-substantial grounds and irresponsible allegations, thereby introducing a serious element of uncertainty in the verdict already rendered by the electorate. Unless clear and cogent testimony is furnished to the Court to uphold the corrupt practices against the candidate, the Court should not declare the election as void. The burden therefore, heavily lies on the petitioner who assails an election which has been concluded. The appreciation of the material placed before it has to be scrutinised like in a criminal case. Each allegation has to be referred within the meaning of provisions and then test whether there is appreciation of evidence. If the test of strict proof on alleged corrupt practices is not followed, serious prejudice would be caused to the elected candidate which would come in the way of electoral process itself.

8. In the present case the allegations of corrupt practices is made against the 1st respondent and the allegation of undue influence is made not only against the 1st respondent but also against his son Rajeshkar Patil. The first issue refers to allegation of corrupt practices by the first respondent as mentioned in paragraphs 5 (a) to 5(e) of the election petition.

9. According to the petitioner as part of the election campaign a meeting came to be held on 21.11.2003 at about 2.30p.m. at Backward Hostel. Bidar, wherein the first respondent said to have made false allegations against the character of the petitioner as already referred to above. This was reported in the local newspapers next day. It is the case of the petitioner as spoken to by him in his evidence that the said meeting was attended by Khaja Arshad Ali - Editor of “Bidar ki Aawaz” and another person Siddaramaiahswamy Editor of Daman Hindu Daily. Exs. P3, 4 & 5 are the newspapers marked through the evidence of the witnesses. Petitioner is examined as PW1 and PW2 is one Mr. Ashok Kumar Karanji, Editor of Ashoka Kote newspaper and PW3 is one Anil Kumar Patil, Editor of Taruna Skathi newspaper. Para 5(e) refers to the presence of these persons along with Khaja Arshad Ali and Siddaramaiahswamy. As a matter of fact petitioner admits that Khaja Arshad Ali was on the dais in the meeting and he informed him later in the evening about alleged statement having been made by respondent no.1 but however, said Khaja Arshad Ali is not examined, so also Siddaramaiahswamy is not examined. At paragraphs 5(a) to (e) the offending portions of the statement said to have been made by the 1st respondent are narrated above. All the paragraphs refer to the petitioner indulging in counterfeit notes which was well within the knowledge of the 1st respondent and it also refers to the petitioner reaching the present status because of the counterfeit notes and Arati Motors. Apparently, the petitioner did not attend this meeting and he learnt about the allegations only through third parties and the paper reports.

10. P.W.s 2 & 3 are the persons concerned with the 2 local papers. When we look at the contents of Ex.P-5 and the evidence of P.W.2 in the examination-in-chief, he refers to the allegations made at paras 5-b(ii) & (iii). Form a perusal of Ex.P-5 it is seen that it refers to only para 5(b) & (iii). P.W.3 Anil Kumar Patil refers to allegation made at para 5(b) (ii). He is the editor and publisher of "Taruna Shakthi" Kannada Daily. "Taruna Shakti" Kannada Daily is marked at Ex.P-3. It also refers to para 5(b)(ii) of the averments in the petition. Ex.R-6 is the newspaper "Bidar ki Awaz". The said newspaper though reported the meeting has not reported the allegations defaming the reputation of the petitioner. According to the petitioner – P.W.1, Mr. Khaja Arshad Ali the General Secretary of District Congress at Bidar was also on the dais along with the 1st respondent. He is also the Chief Editor of "Bidar ki Awaz". It was Mr. Khaja Arshad Ali who on the very same evening informed the petitioner about the accusations made against the petitioner by the 1st respondent in the meeting. If Arshad Ali were to be on the dais and he was the person who informed the petitioner in the evening is person, definitely "Bidar ki Awaz" which is marked at Ex.R-6 should have also carried the report of the said accusation made by the 1st respondent. According to the petitioner, apart from the news items to the effect on that next day in "Bidar ki Awaz" he has no other documents like video tape or a paper clipping making such allegation. He also admits that at Exs.P-3 & P-4 "Taruna Shakthi", no allegations from the speech of R.W.1 are published. He also admits that he has not issued any defamation notice against the petitioner.

11. Therefore, it is clear that P.W.1 was not actually present in the alleged meeting but P.Ws. 2 & 3 who alleged to be present and who were in charge of 2 newspapers are examined. In order to believe the evidence of P.Ws. 2 & 3, one has to see whether each has corroborated the evidence of the other. It is apparent from the records that there are totally 14 newspapers and the alleged accusation of 1st respondent is published only in 3 local newspapers. In regional and national newspapers produced at Exs. R-2 to R-9 no such accusation against the petitioner is forthcoming. Even among the 3 newspapers the exact allegation said to have been made by the 1st respondent does not tally with each other. The common allegation is the words "counterfeit notes". Apparently, P.Ws. 2 & 3 have not produced the notes, which they would have made during the meeting on the basis of which the news items were reported. As a matter of fact, R.W.1 the respondent has categorically denied the presence of these journalists. Except the publication of the news items in the newspapers on the next day, i.e. in the 3 local papers, no other material like recording material regarding the exact speech or words spoken to by the 1st respondent are forthcoming. In order to accept the evidence of P.ws. 2 & 3 when we go through their evidence, they give different timings about the alleged speech of the 1st respondent. According to PW.2 the respondent made the speech between 2.30 to 3.00 p.m. on that day and it was after commencement of 10 to 15 minutes of hits speech. According to him, the meeting went up to 3.30 p.m. on that day and other guest speakers restricted their speech to 2-3 minutes.

12. With regard to the same facts, P.W. 3 Anil Kumar says the function was held after 12.00 noon and he cannot say the exact time. According to him he cannot remember the number of minutes the other speakers spoke. He also cannot say whether the 1st respondent was the last one to speak. However, he remained in the function hall till the end and the same was concluded between 5.30 to 6.00 p.m.

13. They very timing of the meeting would indicate that the meeting concluded by 3.30 p.m. according to P.W. 2, and the meeting concluded at 5.30 or 6.00 p.m. according to P.W.3. This witness also admits that representatives of other newspapers were also present. It is pertinent to mention that except 3 local newspapers none of the other alleged newspapers have reported the said accusations of the respondent no.1 against the petitioner and none of the national or regional papers have published the said accusations. In that view of the matter, in the absence of P.Ws. 2 & 3 producing the notes made by them during the meeting on the basis of which the news items were reported, would it be safe to rely upon such evidence?

14. As already stated above, the standard of proof required in an election petition to conclude that the returned candidate exercised corrupt practice has to prove such corrupt practice by substantial evidence like a criminal case, beyond reasonable doubt. On preponderance of probability because of appearance of news item, the Court cannot conclude that such accusation was made by the 1st respondent. According to the petitioners, the said accusation of the 1st respondent was aimed

to bring down the name and fame of the petitioner so as to influence the public not to vote in his favour. Apart form the above deficits, it is noticed that there is no pleading or evidence on behalf of the petitioner that any of the audience who attended the meeting or who read the statements as reported in the newspapers have formed an adverse opinion about the petitioner and based on such impression, they have not voted in his favour, thereby prejudicially affecting the prospects of his success in the election.

15. The Court relies on the following citations:

1. Manmohan Kalia - vs - Shri Yash - AIR 1984 SC 1161;
2. S.A. Khan - vs - Bhajan Lal and another - (1993) 3 SCC 151;
3. K.V. Narayana Rao and others - vs - Purushotham Rao - AIR 1993 SC 1698;
4. Subhas Desai - vs - Sharad J. Rao - AIR 1994 sc 2277; and
5. Mahendra Singh - vs - Gulab - (2005) 4 SCC 522

16. The gist of these cases is, it is very difficult for a court to rely on news items published on the information given by correspondents because they may not represent the true state of affairs. A news item without any further proof of what had actually happened through other witnesses is of no value. It is at best a second hand or secondary evidence. It is well known that reporters collect information and pass it on to the editor who edits the news item and then publishes it. In this process the truth might get perverted or garbled. Such news items cannot be said to prove themselves although they may be taken into account with other evidence if the other evidence is plausible. The evidence must be clear and cogent and if there is vagueness in the allegations, it would not help the petitioner. The evidence cannot be too general so as to accept the same as material on a serious issue. Whatever is stated in the pleadings has to be established. Whenever a false statement regarding the personal character of the rival candidate is alleged, burden is on the petitioner to prove such allegations beyond reasonable doubt. Apart from bringing material to establish that such accusation assassinating the personal character or conduct of the rival candidate was made, the petitioner must also be able to establish that such accusation actually affects the election prospects of the candidate. Unless sufficient evidence is adduced in order to establish how the statement was understood either by the audience or the reader of the newspaper, it would not be possible for the Court to come to conclusion that such statements made by the 1st respondent in this case has affected the election prospects of the petitioner.

17. On the other hand, the evidence on record would indicate that the petitioner himself countered the said statements in several newspapers. Mere absence of denial by the 1st respondent would not amount to proof of accusations made by the 1st respondent. Therefore, the allegation of character assassination during a speech on 21-11-2003 made by the 1st respondent is not established by the petitioner, for the reasons mentioned above.

18. Then coming to the allegation of undue influence by the petitioner and his son Rajashekar Patil, they are at paragraphs 5(a), 7 & 6 of the election petition. According to the petitioner, being a District In-charge Minister, the 1st respondent exercised undue influence on the Government officials and with their help induced members of the Taluk/Zilla/Town Gram Panchayath and Town Municipal Council to vote in his favour by threatening the voters with dire consequences. Apparently, there is no affidavit filed in form no.25 as required under the Act in support of the allegations of corrupt practices as contemplated under proviso to section 83(1). As a matter of fact, apart from the evidence of P.W.1, he has examined P.W.5 one Mr. Maruti who has stated that polling agents of the petitioner were not allowed to enter the booth till 9.00 a.m. Though the petitioner has made lengthy allegations of undue influence, names of the voters who were threatened with such threats by the respondent are not mentioned. Apart from mentioning the names of those voters, date and place where such threats were made also have to be mentioned as material particulars. Except making an omnibus statement that Government officials extended help to the 1st respondent in bringing such pressure on the voters, no names of such Government officials are also forthcoming.

19. Similarly, there is nothing on record to show that whether such Government officials had the consent of the 1st respondent to make such pressure on the voters. According to the petitioner, on the date of election, none of the polling agents were allowed to enter the booths till 9.00 a.m. on the flimsy ground of the signature of the polling agent not tallying with the specimen signature of him. This was done at the instance of the 1st respondent as the polling officers were indirectly supporting the 1st respondent First the petitioner has to establish that there was collusion between the polling officers and the polling agents of the 1st respondent.

20. The evidence of P.W.5 Maruti is not of much consequence to the case of the petitioner as there is no evidence to show that any voter was prevented from exercising his franchise. Even If the polling agents of the petitioner could not enter the booth on the ground of non-tallying of the signature with the specimen signature, how this can prevent any voter from exercising his vote is not forthcoming. Unless this act has prevented any voter from casting his vote or because of this there was impersonation by someone it would not help the case of the petitioner. Not even one single witness who claims to be a voter is examined by the petitioner. The very speciality of the present election is that the voters were known as they are the members of Taluk/Zilla/Town Gram Panchayath and Town Municipal Council. It is not general electorate who have casted their votes. Any one voter who was influenced by the Government officials at the instance of the respondent could have been examined but no such evidence is forthcoming. Ex.P-19 is produced in this behalf which would only indicate that one Muralidhar Rao Kale polling agent was not allowed in the polling booth on the ground that his signature did not tally with the specimen signature. It is also justifiable on the part of the concerned officer not to allow a polling agent whose signature was not tallying with specimen signature. Just because there was verification of signature of the polling agent, it would not mean that all other polling agents were stopped from entering the booth till 9.00 a.m. Unless the petitioner would show how many proxy votes were cast in favour of the 1st respondent, it would not assist the petitioner in establishing that the election has been prejudicially affected.

21. Then coming to the allegation of undue influence by the son of the present petitioner, the material averments are found at para 6 of the petition. According to the averments in the petition, at para 6, on the date of polling 3-12-2003 Rajashekar Patil along with his supporters said to have entered the polling booth and said to have threatened the voters at gun point to vote in favour of the1st respondent. In this connection, a complaint was lodged to the returning officer which is marked at Ex.P-20. To substantiate this allegation apart from himself, petitioner has examined P.Ws. 4 & 5 as well. Both these witnesses belong to the political party - Janata Dal (S) and they know the petitioner. They assisted him as party workers. Apparently, Muralidhara Rao Kale was not examined to speak what exactly happened when he was not allowed to enter the polling booth, because of difference in the signatures. P.W.4 says he cannot say how many voters were there at 11.00 a.m. when Rajashekar Patil arrived at the Nirna booth. One Srinivas Pattar was the polling agent of BJP. However, he is also not examined though P.W.4 says neither himself nor BJP agent gave complaint against Mr. Rajashekar Pati. According to him, Mr. Rajashekar Patil asked about 10 voters to show the ballot paper. Though they are all from his village, he is not able to give the names. He also says that within $^{1}/_{2}$ an hour after coming to the booth, he was sent away. 12 members according to this witness who were not the voters have cast bogus votes, but he cannot give the names of the persons who were impersonated to cast bogus votes.

22. So far as P.W.5 is concerned, he was the polling agent of the petitioner. The authorisation given to him was sent through some one else and it was in English and he was not knowing English. The said signature was not put by the petitioner in his presence and he was the only polling agent of J.D. (S) at booth no.92. By 7.45 a.m. he submitted his authorisation. All other polling agents were permitted to go inside except him and the said authorisation was returned to him on the ground that the signature of the petitioner did not tally with the specimen signature. He came outside and was allowed to enter the booth only at 9.00 a.m. He sent word to the petitioner through other workers and the petitioner arrived and requested the polling officer to allow him inside the booth as his polling agent and immediately he was allowed inside. There were only 16 votes for booth no. 92 and by the time he entered the booth, 15 persons had casted their votes. Only one person had casted his vote after his entry. He has not lodged any complaint to anyone including the police that the polling officer intentionally did not allow

him to enter the booth nor assisted the 1st respondent. He also admits that it was secret ballot but however, he says that one vote which was cated after his entry was in favour of Basavaraj Patil. However, he personally is not aware of other 15 persons casting their votes in favour of Basavaraj Patil as he did not see. The petitioner relies on Exs. P-14 & P-17 to contend that he made representation to the authorities on 1.12.2003 Itself that the son of the respondent no.1 intimidated the voters in the 3 polling booths and forced them to cast votes in favour of Congress candidate. However, in the so called representation made by him, there is no reference to Rajashekar Patil entering the polling booth station with 30 - 40 supporters and threatening the voters with dire consequences at gun point. The said averment is only found in the petition and it is nothing but an improvement made at the time of filing the election petition. None of the names of voters who were threatened with dire consequences by the son of the 1st respondent are named either in the representation which has come at the earliest point of time or in the pleadings. Except P.Ws. 4 & 5, no other witnesses are examined. These P.Ws. 4 & 5 are no other than the party workers of the petitioner. The material on record would go to show that the so called complaint lodged against the son of the 1st respondent has resulted in 'B' report. On the other hand, it is noticed that no complaint came to be lodged by the petitioner against Rajashekar Patil. Similarly, no complaint came to be lodged by such intimidated or threatened voters either against the son of the 1st respondent or any of his supporters. In that view of the matter, though several allegations of criminal intimidation and undue influence are made against the respondent and the son of the respondent, the evidence placed on record by the petitioner is Incomplete and it does not substantiate the allegations made against the 1st respondent and his son. The entire evidence brought on record does not establish the allegations made against the respondent that he indulged in corrupt practices and made undue influence on the voters.

23. In view of the above discussion and reasoning, the election petition deserves to be dismissed and is accordingly dismissed.

By order,

PR- 15 **K. AJAY KUMAR**

PRINCIPAL SECRETARY

ಸಂಸದೀಯ ವ್ಯವಹಾರಗಳು ಮತ್ತು ಶಾಸನ ರಚನೆ ಸಚಿವಾಲಯ

ಅಧಿಸೂಚನೆ

ಸಂಖ್ಯೆ: ಸಂವ್ಯಶಾಇ 18 ಕೇಶಾಪ್ರ 2011, ಬೆಂಗಳೂರು, ದಿನಾಂಕ: 7ನೇ ಜುಲೈ, 2011

2011ನೇ ಸಾಲಿನ ಜೂನ್ 20ನೇ ದಿನಾಂಕದ ಭಾರತ ಸರ್ಕಾರದ ಗೆಜೆಟ್‌ನ ವಿಶೇಷ ಸಂಚಿಕೆಯ ಭಾಗ–II, ಸೆಕ್ಷೆನ್ 1 ರಲ್ಲಿ ಪ್ರಕಟವಾದ ಈ ಕೆಳಕಂಡ The Indian Institute of Information Technology, Design and Manufacturing, Kacheepuram Ordinance, 2011 (No. 2 of 2011) ಅನ್ನು ಸಾರ್ವಜನಿಕರ ಮಾಹಿತಿಗಾಗಿ ಕರ್ನಾಟಕ ರಾಜ್ಯಪತ್ರದಲ್ಲಿ ಮರು ಪ್ರಕಟಿಸಲಾಗಿದೆ.

MINISTRY OF LAW AND JUSTICE

(Legislative Department)

New Delhi, the 20th June, 2011/Jyaistha 30, 1933 (Saka)

THE INDIAN INSTITUTE OF INFORMATION TECHNOLOGY, DESIGN AND MANUFACTURING, KANCHEEPURAM ORDINANCE, 2011

No. 2 of 2011

Pomulgated by the President in the Sixty-second Year of the Republic of India.

An Ordinance to declare the Indian Institute of Information Technology, Design and Manufacturing, Kancheepuram, in the State of Tamil Nadu, to be an institute of national importance and to provide for its incorporation and for matters connected therewith.

WHEREAS Parliament is not in session and the President is satisfied that circumstances exist which render it necessary for her to take immediate action;

NOW, THEREFORE, in exercise of the powers conferred by clause (1) of article 123 of the Constitution, the President is pleased to promulgate the following Ordinance :-

CHAPTER I

PRELIMINARY

1. Short title and commencement.- (1) This Ordinance may be called the Indian Institute of Information Technology, Design and Manufacturing, Kancheepuram Ordinance, 2011.

(2) It shall come into force at once.

2. Declaration of Indian Institute of Information Technology, Design and Manufacturing, Kancheepuram as an institution of national importance.- Whereas the objects of the institution known as the Indian Institute of Information Technology, Design and Manufacturing, Kancheepuram, in the State of Tamil Nadu are such as to make the institution one of national importance, it is hereby declared that the Indian Institute of Information Technology, Design and Manufacturing, Kancheepuram is an institution of national importance.

3. Definitions.- In this Ordinance, unless the context otherwise requires:-

(a) "Board" means the Board of Governors of the Institute.

(b) "Chairperson" means the Chairperson of the Board,

(c) "Director" means the Director of the Institute;

(d) "Institute" means the institution known as the Indian Institute of Information Technology, Design and Manufacturing, Kancheepuram incorporated under this Ordinance;

(e) "notification" means a notification published in the Official Gazette,

(f) "prescribed" means prescribed by Statutes made under this Ordinance,

(g) "Registrar" means the Registrar of the Institute;

(h) "Senate" means the Senate of the Institute;

(i) "Society" means the society known as the Indian Institute of Information Technology, Design and Manufacturing, Kancheepuram, registered under the Societies Registration Act, 1860; (21 of 1860)

(j) "Statutes" and "Ordinances" means the Statutes and Ordinances of the Institute made under this Ordinance;

(k) "Visitor" means the President of India.

CHAPTER II

THE INSTITUTE

4. Incorporation of Institute.- (1) The Indian Institute of Information Technology, Design and Manufacturing, Kancheepuram which is a society registered under the Societies Registration Act, 1860 (21 of 1860.) is hereby constituted as a body corporate by the name aforesaid and as such body corporate, it shall have perpetual succession and a common seal with power, subject to the provisions of this Ordinance, to acquire, hold and dispose of property and to contract and shall, by that name, sue and be sued.

(2) The Institute shall consist of a Chairperson, a Director and other members of the Board.

5. Effect of incorporation of Institute.- (1) On and from the commencement of this Ordinance, -

(a) any reference to the Society in any law, other than this Ordinance, or in any contract or other instrument, shall be deemed as a reference to the Institute;

(b) all property, movable and immovable, of or belonging to the Society shall vest in the Institute;

(c) all the rights and liabilities of the Society shall be transferred to, and be the rights and liabilities of the Institute; and

(d) every person employed by the Society, immediately before such commencement shall hold his office or service in the institute for the same tenure, at the same remuneration and upon the same terms and conditions and with the same rights and privileges as to pension, leave, gratuity, provident fund and other matters as he would have held if this Ordinance had not been promulgated, and shall continue to do so unless and until his employment is terminated or until such tenure, remuneration and terms and conditions are duly altered by the Statutes

Provided that if the alteration so made is not acceptable to such employee, his employment may be terminated by the Institute in accordance with the terms of contract with the employee or, if no provision is made therein in this behalf, on payment to him by the Institute of compensation equivalent to three months' remuneration in the case of permanent employees and one month's remuneration in the case of other employees.

(2) Any person pursuing any academic or research course, at any time before the commencement of this Ordinance, in the Society for award of any degree or diploma and registered for the said purpose with it shall be deemed to have migrated after such commencement to the Institute incorporated under this Ordinance and be registered with the said Institute for grant of the same degree or diploma by the Institute and such person shall be deemed to have migrated and registered with the Institute incorporated under this Ordinance at the same level of study in the Society from which such person is deemed to have migrated.

6. Powers and functions of Institute.- (1) Subject to the provisions of this Ordinance, the Institute shall exercise the following powers and perform the following functions, namely:-

(a) to provide for instruction and research in such branches of engineering and technology, management, education, sciences and arts, as the Institute may think fit, and for the advancement of learning and dissemination of knowledge in such branches;

(b) to hold examinations and grant degrees, diplomas and other academic distinctions or titles;

(c) to confer honorary degrees or other distinctions;

(d) to fix, demand and receive fees and other charges;

(e) to establish, maintain and manage halls and hostels for the residence of students;

(f) to supervise and control the residence and regulate the discipline of students of the Institute and to make arrangements for promoting their health, general welfare and cultural and corporate life;

(g) to provide for the maintenance of units of the National Cadet Corps for the students of the Institute;

(h) to create administrative, technical, ministerial, academic and other posts with the prior approval of the Central Government, and to make appointments thereto (except in the case of the Director);

(i) to frame Statutes and Ordinances and to alter, modify or rescind the same;

(j) to deal with any property belonging to or vested in the Institute in such manner as the Institute may deem fit for advancing the objects of the Institute;

(k) to receive gifts, grants, donations or benefactions from the Government and to receive bequests, donations and transfers of moveable or immovable properties from testators, donors or transferors, as the case may be;

(l) to co-operate with educational or other institutions in any part of the world having objects wholly or partly similar to those of the Institute by exchange of teachers and scholars and generally in such manner as may be conducive to their common objects;

(m) to institute and award fellowships, scholarships, exhibitions, prizes and medals;

(n) to undertake consultancy in the areas or disciplines relating to the Institute; and

(o) to do all such things as may be necessary, incidental or conducive to the attainment of all or any of the objects of the Institute.

(2) Notwithstanding anything contained in sub-section (1), the Institute shall not dispose of in any manner any immovable property without the prior approval of the Central Government.

7. Institute to be open to all races, creeds and classes.- (1) The Institute shall be open to persons of either sex and of whatever race, creed, caste or class, and no test or condition shall be imposed as to religious belief or profession in admitting or appointing members, students, teachers or workers or in any other connection whatsoever.

(2) No bequest, donation or transfer of any property shall be accepted by the Institute which in the opinion of the Board involves conditions or obligations opposed to the spirit and object of this section.

8. Teaching at Institute.- All teaching at the Institute shall be conducted by or in the name of the Institute in accordance with the Statutes and Ordinances made in this behalf.

9. Visitor.- (1) The President of India shall be the Visitor of the Institute.

(2) The Visitor may appoint one or more persons to review the work and progress of the Institute and to hold inquiries into the affairs thereof and to report thereon in such manner as the Visitor may direct.

(3) Upon receipt of any such report, the Visitor may take such action and issue such directions as the Visitor considers necessary in respect of any of the matters dealt with in the report and the Institute shall be bound to comply with such directions.

10. Authorities of Institute.- The following shall be the authorities of the Institute, namely:-

(a) Board of Governors;

(b) Senate; and

(c) such other authorities as may be declared by the Statutes to be the authorities of the Institute.

11. Board of Governors.- The Board of Governors of the Institute shall consist of the following members, namely:-

(a) the Chairperson, to be nominated by the Visitor;

(b) the Director, *ex officio;*

(e) one person to be nominated by the Government of Tamil Nadu;

(d) four persons to be nominated by the Central Government having special knowledge or practical experience in respect of engineering education, industry, information technology, design and manufacturing industries;

(e) one professor to be nominated by the Senate;

(f) one nominee of the Ministry in the Central Government dealing with Technical Education; and

(g) one nominee of the Ministry in the Central Government dealing with Information Technology;

12. Terms of office of, vacancies among and allowances payable to, members of Board.- (1) Save as otherwise provided in this section, the term of office of the Chairperson or other members of the Board shall be three years from the date of his nomination.

(2) The term of office of an *ex officio* member shall continue so long as he holds the office by virtue of which he is a member.

(3) The term of office of a member nominated under clause (e) of section 11 shall be two years from the 1st day of January of the year in which he is nominated.

(4) The term of office of a member nominated to fill a casual vacancy shall continue for the remainder of the term of the member in whose place he has been nominated.

(5) Notwithstanding anything contained in this section, an outgoing member shall, unless the Board otherwise directs, continue in office until another person is nominated as a member in his place.

(6) The members of the Board shall be entitled to such allowances, if any, from the Institute as may be provided for in the Statutes but no member other than the members referred to in clauses (b) and (e) of section 11 shall be entitled to any salary by reason of this sub-section.

(7) A member may resign his office by writing under his hand addressed to the Central Government but he shall continue in office until his resignation is accepted by that Government.

13. Powers and functions of Board.- (1) Subject to the provisions of this Ordinance, the Board of the Institute shall be responsible for the general superintendence, direction and control of the affairs of the Institute and shall exercise all the powers of the Institute not otherwise provided for by this Ordinance, the Statutes and the Ordinances and shall have the power to review the acts of the Senate .

(2) Without prejudice to the provisions of sub-section (1), the Board shall,-

(a) take decisions on questions of policy relating to the administration and working of the Institute;

(b) institute courses of study at the Institute;

(c) make Statutes;

(d) institute and appoint persons to academic as well as other posts in the Institute;

(e) consider and modify or cancel Ordinances;

(f) consider and pass resolutions on the annual report, the annual accounts and the budget estimates of the Institute;

(g) exercise such other powers and perform such other duties as may be conferred or imposed upon it by this Ordinance or the Statutes.

(3) The Board shall have the power to appoint such committees, as it considers necessary for the exercise of its powers and the performance of its duties under this Ordinance.

14. Senate.- The Senate of the Institute shall consist of the following persons, namely :-

(a) the Director, *ex officio,* who shall be the Chairman of the Senate;

(b) the Professors appointed or recognised as such by the Institute for the purpose of imparting instructions in the Institute;

(c) three persons, not being employees of the Institute, to be nominated by the Board from among educationists of repute, one each from the fields of science, engineering and humanities; and

(d) such other members of the staff as may be laid down in the Statutes.

15. Functions of Senate.- Subject to the provisions of this Ordinance, the Statutes and the Ordinances, the Senate shall be the principal academic body of the Institute and shall have control over and be responsible for maintenance of standards of education, teaching and training, inter-departmental coordination, research, examinations and tests within the Institute and shall exercise such other powers and discharge such other duties and functions as may be prescribed or conferred upon it by the Statutes.

16. Powers and functions of Chairperson.- (1) The Chairperson shall preside at the meetings of the Board and at convocations of the Institute.

(2) It shall be the duty of the Chairperson to ensure that decisions taken by the Board are implemented.

(3) The Chairperson shall exercise such powers and perform such duties as may be assigned to him by or under this Ordinance, Statutes or by resolution of the Board.

17. Director.- (1) The Director of the Institute shall be appointed by the Visitor, on whose directions the Board shall issue an order of appointment.

(2) The Director shall be the principal academic and executive officer of the Institute and shall be responsible for proper administration of the Institute and for imparting of instruction and maintenance of discipline therein.

(3) The Director shall submit annual reports and accounts to the Board.

(4) The Director shall exercise such powers and perform such other duties as may be assigned to him by this Ordinance, the Statutes or Ordinances or by resolution of the Board.

18. Registrar.-(1) The appointment of the Registrar of the Institute shall be on such terms and conditions as laid down by the Statutes.

(2) The Registrar shall be the custodian of records, the common seal, the funds of the Institute and the property of the Institute, as the Board shall commit to his charge.

(3) The Registrar shall act as the Secretary of the Board and such committees, as may be prescribed by the Statutes.

(4) The Registrar shall exercise such other powers and perform such other duties as may be assigned to him by this Ordinance or the Statutes or the Board or the Director and in exercising such powers and in performing such duties, he shall be responsible to the Director for the proper discharge of his functions.

19. Other authorities and Officers.- The powers and duties of officers other than those mentioned in this Chapter shall be determined by the Statutes.

20. Grants by Central Government.- For the purpose of enabling the Institute to discharge its functions efficiently under this Ordinance, the Central Government may after due appropriation made by Parliament by law in this behalf, pay to the Institute in each financial year such sums of money and in such manner as it may think fit.

21. Funds of Institute.- (1) The institute shall maintain a fund to which the following shall be credited, namely:-

(a) all moneys provided by the Central Government or any State Government;

(b) all fees and other charges received by the Institute;

(c) all moneys received by the Institute by way of grants, gifts, donations, benefactions, bequests or transfers; and

(d) all moneys received by the Institute in any other manner or from any other source.

(2) All moneys credited to the Fund of the Institute shall be deposited in such banks or invested in such manner as the Institute may, with the approval of the Central Government, decide.

(3) The Fund of the Institute shall be applied towards meeting the expenses of the Institute, including expenses incurred in the exercise of its powers and discharge of its duties under this Ordinance.

22. Accounts and audit.- (1) The Institute shall maintain proper accounts and other relevant records and prepare an annual statement of accounts, including the balance sheet, in such form as may be specified, by notification, by the Central Government in consultation with the Comptroller and Auditor-General of India.

(2) The accounts of the Institute shall be audited by the Comptroller and Auditor-General of India and any expenditure incurred by him in connection with such audit shall be payable by the Institute to the Comptroller and Auditor-General of India.

(3) The Comptroller and Auditor-General of India and any person appointed by him in connection with the audit of the accounts of the Institute shall have the same rights, privileges and authority in connection with such audit as the Comptroller and Auditor-General of India has in connection with the audit of the Government accounts, and, in particular, shall have the rights to demand the production of books, accounts, connected vouchers and other documents and papers and to inspect the offices of the Institute.

(4) The accounts of the Institute as certified by the Comptroller and Auditor- General of India or any other person appointed by him in this behalf together with the audit report thereon shall be forwarded annually to the Central Government and that Government shall cause the same to be laid before each House of Parliament in accordance with such procedure as may be laid down by the Central Government.

23. Pension and provident fund.- (1) The Institute shall constitute for the benefit of its employees, including the Director in such manner and subject to such conditions as may be prescribed by the Statutes, such pension and provident funds and provide such insurance scheme as it may deem fit.

(2) Where any such provident fund has been so constituted, the Central Government may declare that the provisions of the Provident Funds Act, 1925 (19 of 1925.) shall apply to such fund as if it were a Government Provident Fund.

24. Appointments.- All appointments of the staff of the Institute, except that of the Director, shall be made in accordance with the procedure laid down in the Statutes, by -

(a) the Board, if the appointment is made on the -

(i) academic staff in the post of Associate Professor or above; or

(ii) non-academic staff in any cadre up to a scale of pay as decided by the Board; and

(b) the Director, in other cases.

25. Statutes.- Subject to the provisions of this Ordinance, the Statutes may provide for all or any of the following matters, namely:-

(a) the conferment of honorary degrees;

(b) the formation of departments or divisions of teaching;

(c) the fees to be charged for courses of study in the Institute and for admission to the examinations of degrees and diplomas of the Institute;

(d) the institution of fellowships, scholarships, exhibitions, medals and prizes;

(e) the term of office and the method of appointment of officers of the Institute;

(f) the qualifications of teachers of the Institute;

(g) the classifications, the method of appointment and the determination of the terms and conditions of service of teachers and other staff of the Institute;

(h) the constitution of pension and provident funds and insurance scheme for the benefit of the officers, teachers and other staff of the Institute;

(i) the constitution, powers and duties of the authorities of the Institute;

(j) the establishment and maintenance of halls and hostels;

(k) the conditions of residence of students of the Institute and the levying of fees for residence in the halls and hostels and of other charges;

(l) the allowances to be paid to the Chairperson and members of the Board;

(m) the authentication of the orders and decisions of the Board;

(n) the meetings of the Board, the Senate, or any Committee, the quorum at such meetings and the procedure to be followed in the conduct of their business;

(o) any other matter which by this Ordinance is to be or may be prescribed by the Statutes.

26. Statutes, how made.- (1) The first Statutes of the Institute shall be framed by the Central Government with the previous approval of the Visitor and a copy of the same shall be laid as soon as may be before each House of Parliament.

(2) The Board may, from time to time, make new or additional Statutes or may amend or repeal the Statutes in the manner provided in this section.

(3) Every new Statute or addition to the Statutes or any amendment or repeal of Statute shall require the previous approval of the Visitor who may assent thereto or withhold assent or remit it to the Board for consideration.

(4) A new Statute or a Statute amending or repealing an existing Statute shall have no validity unless it has been assented to by the Visitor.

27. Ordinances.- Subject to the provisions of this Ordinance and the Statutes, the Ordinances of the Institute may provide for all or any of the following matters, namely:-

(a) the admission of the students to the Institute;

(b) the courses of study to be laid down for all degrees and diplomas of the Institute;

(c) the conditions under which students shall be admitted to the degree or diploma courses and to the examinations of the Institute, and shall be eligible for degrees and diplomas;

(d) the conditions of award of the fellowships, scholarships, exhibitions, medals and prizes;

(e) the conditions and mode of appointment and duties of examining bodies, examiners and moderators;

(f) the conduct of examinations;

(g) the maintenance of discipline among the students of the Institute; and

(h) any other matter which by this Ordinance or the Statutes is to be or may be provided for by the Ordinances.

28. Ordinances how made.- (1) Save as otherwise provided in this section, Ordinances shall be made by the Senate.

(2) All Ordinances made by the Senate shall have effect from such date as it may direct, but every Ordinance so made shall be submitted, as soon as may be, to the Board and shall be considered by the Board at its next succeeding meeting.

(3) The Board shall have power by resolution to modify or cancel any such Ordinance and such Ordinance shall from the date of such resolution stand modified accordingly or cancelled, as the case may be.

29. Tribunal of Arbitration.- (1) Any dispute arising out of a contract between the Institute and any of its employees shall, at the request of the employee concerned or at the instance of the Institute, be referred to a Tribunal of Arbitration consisting of one member appointed by the Institute, one member nominated by the employee, and an umpire appointed by the Visitor.

(2) The decision of the Tribunal shall be final and shall not be questioned in any court.

(3) No suit or proceeding shall lie in any court in respect of any matter, which is required by sub-section (1) to be referred to the Tribunal of Arbitration.

(4) The Tribunal of Arbitration shall have power to regulate its own procedure.

(5) Nothing in any law for the time being in force relating to arbitration shall apply to arbitrations under this section.

CHAPTER III

MISCELLANEOUS

30. Control by Central Government.- The Institute shall carry out such directions as may be issued to it from time to time by the Central Government for the efficient administration of this Ordinance.

31. Acts and proceedings not to be invalidated by vacancies, etc.- No act of the Institute or Board or Senate or any other body set up under this Ordinance or the Statutes shall be invalid merely by reason of-

(a) any vacancy in or defect in the constitution thereof; or

(b) any defect in the selection, nomination or appointment of a person acting as a member thereof; or

(c) any irregularity in its procedure not affecting the merits of the case.

32. Power to remove difficulties. (1) If any difficulty arises in giving effect to the provisions of this Ordinance, the Central Government may, by order published in the Official Gazette, make such provisions not inconsistent with the provisions of this Ordinance, as may appear to it to be necessary or expedient for removing the difficulty.

(2) Every order made under this section shall, as soon as may be after it is made, be laid before each of House of Parliament.

33. Transitional provisions.- Notwithstanding anything contained in this Ordinance,--

(a) the Board of Governors of the institute functioning as such immediately before the commencement of this Ordinance shall continue to so function until a new Board is constituted for the Institute under this Ordinance, but on the constitution of a new Board under this Ordinance, the members of the Board holding office before such constitution shall cease to hold office;

(b) the Senate constituted in relation to the Institute before the commencement of this Ordinance shall be deemed to be the Senate constituted under this Ordinance until a Senate is constituted under this Ordinance for the Institute, but on the constitution of the new Senate under this Ordinance, the members of the Senate holding office before such constitution shall cease to hold office.

PRATIBHA DEVI SINGH PATIL,
President.

V.K. BHASIN,
Secy. to the Govt. of India.

CORRIGENDA

In the Gazette of India, Extraordinary, Part II, Section 1, issued as Issue No. 37, published on Vaisakha 29, 1925 (Saka) publishing the Cigarettes and Other Tobacco Products (Prohibition of Advertisement and Regulation of Trade and Commerce, Production, Supply and Distribution) Act, 2003 (34 of 2003), in the Block of the Gazette occurring on page 1,-

(i) *for* " मई 19,2002", *read* " मई 19, 2003";

(ii) *for* "May 19, 2002", *read* "May 19, 2003.

ಕರ್ನಾಟಕ ರಾಜ್ಯಪಾಲರ ಆದೇಶಾನುಸಾರ ಮತ್ತು ಅವರ ಹೆಸರಿನಲ್ಲಿ,
ಆರ್. ಆಂಜಿನಿ,
ಸಹಾಯಕ ಪ್ರಾರೂಪಕಾರ ಮತ್ತು ಪದನಿಮಿತ್ತ
ಸರ್ಕಾರದ ಉಪಕಾರ್ಯದರ್ಶಿ,
ಸಂಸದೀಯ ವ್ಯವಹಾರಗಳು ಮತ್ತು ಶಾಸನ ರಚನೆ ಇಲಾಖೆ.

PR-16

ಸಂಸದೀಯ ವ್ಯವಹಾರಗಳು ಮತ್ತು ಶಾಸನ ರಚನೆ ಸಚಿವಾಲಯ

ಸಂಖ್ಯೆ: ಸಂವ್ಯಶಾಇ 6 ಕೇನಿಪ್ರ 2011, ಬೆಂಗಳೂರು, ದಿನಾಂಕ: 15ನೇ ಜುಲೈ, 2011.

ಅಧಿಸೂಚನೆ

1983ನೇ ಸಾಲಿನ ಫೆಬ್ರವರಿ 16ನೇ ದಿನಾಂಕದ ಭಾರತ ಸರ್ಕಾರದ ಗೆಜೆಟ್‌ನ ವಿಶೇಷ ಸಂಚಿಕೆಯ ಭಾಗ–II ಸೆಕ್ಷನ್ 3(ii)ರಲ್ಲಿ ಪ್ರಕಟವಾದ ಈ ಕೆಳಕಂಡ S.O. 116(E) (Notification No. F. No. 1/3/SE/83) ದಿನಾಂಕ: 15–02–1993 ಅನ್ನು ಸಾರ್ವಜನಿಕರ ಮಾಹಿತಿಗಾಗಿ ಕರ್ನಾಟಕ ರಾಜ್ಯಪತ್ರದಲ್ಲಿ ಮರು ಪ್ರಕಟಿಸಲಾಗಿದೆ.

MINISTRY OF FINANCE

(Department of Economic Affairs)

(Stock Exchange Division)

NOTIFICATION

New Delhi, the 15th February, 1983.

S.O. 116(E).-The Central Government, having considered the application for recognition made under section 3 of the Securities Contracts (Regulation) Act, 1956 (42 of 1956), by the Bangalore Stock Exchange Limited, Bangalore (hereinafter referred to as the Exchange) and being satisfied that it would be in the interest of the trade and also in the public interest so to do, hereby grants, in exercise of the powers conferred by section 4 of the Securities Contracts (Regulation) Act, 1956, recognition to the Exchange under Section 4 of the said Act, on a permanent basis, in respect of contracts in securities subject to such conditions as may be prescribed or imposed hereafter.

[F. No. 1/3/SE/83]

N. K. SENGUPTA, Jt. Secy.

ಕರ್ನಾಟಕ ರಾಜ್ಯಪಾಲರ ಆದೇಶಾನುಸಾರ ಮತ್ತು ಅವರ ಹೆಸರಿನಲ್ಲಿ,

ಆರ್. ಆಂಜಿನಿ,

ಸಹಾಯಕ ಪ್ರಾರೂಪಕಾರ ಮತ್ತು ಪದನಿಮಿತ್ತ

ಸರ್ಕಾರದ ಉಪಕಾರ್ಯದರ್ಶಿ,

ಪಿ.ಆರ್. 17 ಸಂಸದೀಯ ವ್ಯವಹಾರಗಳು ಮತ್ತು ಶಾಸನ ರಚನೆ ಇಲಾಖೆ.

ELECTION COMMISSION OF INDIA

Nirvachan Sadan, Ashoka Road, New Delhi-110001,

No.76/KT-LA/2008, Dated 7th July, 2011. 16 Asadha, 1933 (Saka)

ORDER

Whereas, the Election Commission of India is satisfied that each of the contesting candidate specified in column 3 of the Table below at the General Election to the Legislative Assembly, 2008 from Karnataka Assembly Constituency of specified in column 2 against their names have failed to lodge the account of their election expenses in manner as shown in column 4 of the said Table as required by the Representation of the People Act, 1951 and the Rules made there under;

And whereas, the said candidates have either not furnished any reason or explanation for the said failure even after receiving Election Commission's notice, and the Election Commission is satisfied that they have no good reason or justification for the said failure;

Now, therefore, in pursuance of section 10A of the said Act, the Election Commission hereby declares the persons specified in column 3 of the Table below to be disqualified for being chosen as and for being a member of either House of Parliament or the Legislative Assembly or Legislative Council of a State or Union Territory for a period of three years from the date of this order:-

TABLE

Sl. No.	Particulars of Election	Sl. No.& Name of Assembly Constituency	Name & Address of Contesting Candidate	Reasons for Disqualification
1	2	3	4	5
1	General Elections to Karnataka Legislative Assembly, 2008	44-Gulbarga Dakshin	Sh. Gulam Rabbani H.No.1-655/A/1, Station Bazar, Gulbarga	Failed to lodge any account of his election expenses.
2	General Elections to Karnataka Legislative Assembly, 2008	44-Gulbarga Dakshin	Sh. Ambaray Mahamuni. Village Hatagunda, Post. Sawalagi, Tq. Dist. Gulbarga	Failed to lodge any account of his election expenses.

Sl. No.	Particulars of Election	Sl. No.& Name of Assembly Constituency	Name & Address of Contesting Candidate	Reasons for Disqualification
1	2	3	4	5
3	General Elections to Karnataka Legislative Assembly, 2008	44-Gulbarga Dakshin	Sh. Jaganath Mannu Chavan, H.No. 1-289, Hadagil Haruti, Tq. Dist. Gulbarga.	Failed to lodge any account of his election expenses.
4	General Elections to Karnataka Legislative Assembly, 2008	44-Gulbarga Dakshin	Mohammad. Galib Pasha, H.No.1-6251 to 1-6414, Aiwan-E-Shahi, P.W.D.Qut., Gulbarga	Failed to lodge any account of his election expenses.
5	General Elections to Karnataka Legislative Assembly, 2008	44-Gulbarga Dakshin	Shaikh Mahaboob Bhoganalli, H.No.E-5-850, Near Chandbibi B.Ed. Collage, Near Ring Road, Gulbarga.	Failed to lodge any account of his election expenses.
6	General Elections to Karnataka Legislative Assembly, 2008	45-Gulbarga Uttar	Sh. Dayanand Patil, Channaveer Nagar, Filter Bed, Taj Sultanpur Road, Gulbarga	Failed to lodge any account of his election expenses.
7	General Elections to Karnataka Legislative Assembly, 2008	45-Gulbarga Uttar	Mahamad Hussain, Payan Darga Road, Roza (B) Gulbarga	Failed to lodge any account of his election expenses.
8	General Elections to Karnataka Legislative Assembly, 2008	128- Chikkanayakana halli	Sh. D. Jayanna Gowda, S/o Dasegowda Kurihatti, Kenkere Post, Huliyar Hobli, CN Halli Tq.	Failed to lodge any account of his election expenses.
9	General Elections to Karnataka Legislative Assembly, 2008	140-Bagepalli	Sh. T.V. Chalapathappa, S/o Chickka Venkatarayappa Theemakalapalli Village, Bagepali Post, Kasaba Hobli, Bagepalli Taluk, Chickballapur District.	Failed to lodge any account of his election expenses.
10	General Elections to Karnataka Legislative Assembly, 2008	140-Bagepalli	Sh. S.V. Kodanda Ramu (Nambike Ram Kumar) S/o S. Venkatarayappa, No. 941, 50 Feet, Main Road, Kumarswamy Extension, 2nd Stage, Bangalore-78	Failed to lodge any account of his election expenses.
11	General Elections to Karnataka Legislative Assembly, 2008	156- Mahalakshmi Layout	Sh. Veerabhadre Gowda, No. 57/E, Snnakkibylu, Magadi Main Road, Bangalore-79	Failed to lodge any account of his election expenses.
12	General Elections to Karnataka Legislative Assembly, 2008	156- Mahalakshmi Layout	Sh. V. Harish, 33,3rd C Main, Sriramanagara Mahalakshmi Puram, Bangalore - 86	Failed to lodge any account of his election expenses.

Sl. No.	Particulars of Election	Sl. No.& Name of Assembly Constituency	Name & Address of Contesting Candidate	Reasons for Disqualification
1	2	3	4	5
13	General Elections to Karnataka Legislative Assembly, 2008	158-Hebbal	Sh. B. Chinnappa Gowda, #103,3rd Main Road, Amarajyothi Layout, Cholanayakanahalli, R.T. Nagar, Bangalore -32	Failed to lodge any account of his election expenses.
14	General Elections to Karnataka Legislative Assembly, 2008	158-Hebbal	Mohammed Tahir, #80 (1) 5th Main, Bhuvaneshwarinagar, R.T. Nagar (Post), Bangalore -32	Failed to lodge any account of his election expenses.
15	General Elections to Karnataka Legislative Assembly, 2008	158-Hebbal	Latha, #512, 7th Cross, Cholanayakanahalli, R.T. Nagar Post, Bangalore -32	Failed to lodge any account of his election expenses.

By Order,

R.K. SRIVASTAVA

PRINCIPAL SECRETARY

ELECTION COMMISSION OF INDIA

PR No. 18

ಸಂಸದೀಯ ವ್ಯವಹಾರಗಳು ಮತ್ತು ಶಾಸನ ರಚನೆ ಸಚಿವಾಲಯ

ಅಧಿಸೂಚನೆ

ಸಂಖ್ಯೆ: ಸಂವ್ಯಶಾಇ 8 ಕೇನಿಪ್ರ 2011, ಬೆಂಗಳೂರು, ದಿನಾಂಕ: 23ನೇ ಜುಲೈ, 2011

2011ನೇ ಸಾಲಿನ ಏಪ್ರಿಲ್ 13ನೇ ದಿನಾಂಕದ ಭಾರತ ಸರ್ಕಾರದ ಗೆಜೆಟ್‌ನ ವಿಶೇಷ ಸಂಚಿಕೆಯ ಭಾಗ–II, ಸೆಕ್ಷನ್ 3(ii) ರಲ್ಲಿ ಪ್ರಕಟವಾದ ಈ ಕೆಳಕಂಡ S.O. 746 (E) (Notification No. F.No. 12(31)/99-IPC (Vol.V) ದಿನಾಂಕ: 11–04–2011 ಅನ್ನು ಸಾರ್ವಜನಿಕರ ಮಾಹಿತಿಗಾಗಿ ಕರ್ನಾಟಕ ರಾಜ್ಯಪತ್ರದಲ್ಲಿ ಮರು ಪ್ರಕಟಿಸಲಾಗಿದೆ.

MINISTRY OF COMMUNICATIONS AND INFORMATION TECHNOLOGY

(Department of Information Technology)

NOTIFICATION

New Delhi, the 11th April, 2011

S.O. 746 (E):- In exercise of the powers conferred by sub-section (3) of Section 1 of the Semiconductor Integrated Circuits Layout-Design Act, 2000 (37 of 2000), the Central Government hereby appoints the 1st day of May, 2011 as the date on which the provisions of Sections 1 (1 & 2), 2, 3(2), 4, 6 to 31, 54, 56 to 92, 95 and 96 of the said Act shall come into force.

[F. No. 12(31)/99-IPC (Vol. V)]

N. RAVISHANKER, Joint Secy.

ಕರ್ನಾಟಕ ರಾಜ್ಯಪಾಲರ ಆದೇಶಾನುಸಾರ ಮತ್ತು ಅವರ ಹೆಸರಿನಲ್ಲಿ,

ಆರ್. ಆಂಜಿನಿ,

ಸಹಾಯಕ ಪ್ರಾರೂಪಕಾರ ಮತ್ತು ಪದನಿಮಿತ್ತ

ಸರ್ಕಾರದ ಉಪ ಕಾರ್ಯದರ್ಶಿ,

ಸಂಸದೀಯ ವ್ಯವಹಾರಗಳು ಮತ್ತು ಶಾಸನ ರಚನೆ ಇಲಾಖೆ.

PR No. 19

ಸಂಸದೀಯ ವ್ಯವಹಾರಗಳು ಮತ್ತು ಶಾಸನ ರಚನೆ ಸಚಿವಾಲಯ

ಅಧಿಸೂಚನೆ

ಸಂಖ್ಯೆ: ಸಂವ್ಯಶಾಇ 7 ಕೇನಿಪ್ರ 2011, ಬೆಂಗಳೂರು, ದಿನಾಂಕ: 23ನೇ ಜುಲೈ, 2011

2011ನೇ ಸಾಲಿನ ಏಪ್ರಿಲ್ 29ನೇ ದಿನಾಂಕದ ಭಾರತ ಸರ್ಕಾರದ ಗೆಜೆಟ್‌ನ ವಿಶೇಷ ಸಂಚಿಕೆಯ ಭಾಗ–II, ಸೆಕ್ಷನ್ 3(ii) ರಲ್ಲಿ ಪ್ರಕಟವಾದ ಈ ಕೆಳಕಂಡ S.O. 909 (E) (Notification No. F.No. II/21022/10(1)/2010-FC-III ದಿನಾಂಕ:29–04–2011 ಅನ್ನು ಸಾರ್ವಜನಿಕರ ಮಾಹಿತಿಗಾಗಿ ಕರ್ನಾಟಕ ರಾಜ್ಯಪತ್ರದಲ್ಲಿ ಮರು ಪ್ರಕಟಿಸಲಾಗಿದೆ.

MINISTRY OF HOME AFFAIRS

NOTIFICATION

New Delhi, the 29th April, 2011

S.O. 909 (E):- In exercise of the powers conferred by sub-section (3) of Section 1 of the Foreign Contribution (Regulation) Act, 2010 (42 of 2010), the Central Government hereby appoints the 1st day of May, 2011 as the date on which the provisions of the said Act shall come into force.

[F. No. II/21022/10(1)2010-FC-III)]

G.V.V. SARMA, Joint Secy.

ಕರ್ನಾಟಕ ರಾಜ್ಯಪಾಲರ ಆದೇಶಾನುಸಾರ ಮತ್ತು ಅವರ ಹೆಸರಿನಲ್ಲಿ,
ಆರ್. ಆಂಜಿನಿ,
ಸಹಾಯಕ ಪ್ರಾರೂಪಕಾರ ಮತ್ತು ಪದನಿಮಿತ್ತ
ಸರ್ಕಾರದ ಉಪ ಕಾರ್ಯದರ್ಶಿ,
ಸಂಸದೀಯ ವ್ಯವಹಾರಗಳು ಮತ್ತು ಶಾಸನ ರಚನೆ ಇಲಾಖೆ.

PR. No. 20

MINISTRY OF STATISTICS AND PROGRAMME IMPLEMENTATION

NOTIFICATION

New Delhi, the 16th May, 2011

G.S.R. 387(E).-In exercise of the powers conferred by section 33 of the Collection of Statistics Act, 2008 (7 of 2009), the Central Government hereby makes the following rules, namely :-

COLLECTION OF STATISTICS RULES, 2011

1. **Short title and commencement:** (1) These rules may be called the Collection of Statistics Rules, 2011.

   (2) they shall come into force on the date of their publication in the Official Gazette.

2. **Definitions :** (1) In these rules, unless the context otherwise requires.-

   (a) 'Act' means the Collection of Statistics Act, 2008 ;

   (b) "Form" means a form appended to these rules ;

   (c) 'nodal officer' means an officer designated as nodal officer under rule 3 of these rules ;

   (d) "personal information" means any information, whether true or not, and whether recorded in a material form or not, about an informant whose identity can reasonably be ascertained from such information;

   (e) "reference period" means the time period over which the data collected reflects the characteristics of the units of enumeration;

(f) "State Government", in relation to a Union territory, means the Administration thereof; and

(g) "outsourcings" means making use of the services of a private service provider for the purposes of these rules.

(2) Words and expressions used but not defined herein shall have the meanings respectively assigned to them in the Act.

3. Nodal officer.-(1) The Central Government shall designate an officer not below the rank of a Joint Secretary to the Government of India in a nodal Department dealing with statistical matters, as the nodal officer for exercising powers and performing duties under these rules.

(2) Every State Government shall designate an officer not below the rank of a Deputy Secretary to the State Government in a nodal Department dealing with statistical matters, as the nodal officer for exercising powers and performing duties under these rules,

4. Powers and duties of nodal officer.-(1) The nodal officer designated by the Central Government under sub-rule (1) of rule 3 shall-

(a) maintain and update register of statistics officers appointed by the Central Government;

(b) obtain and maintain, from time to time, information on availability of statistics including unit level data, whether collected under the provisions of the Act or not, with different Departments of the Central Government and nodal officers in the States;

(c) advise the Departments of the Central Government and the nodal officers in the States on steps to improve the statistical potential of administrative records to avoid conducting separate statistical surveys to collect statistics contained or purported to be contained in such administrative records;

(d) issue instructions from time to time on promoting the sharing of statistical information including unit-level data among different Departments of the Central Government and States to avoid unnecessary duplication of programmes of collection of statistics and resolve disputes or differences of opinion, if any, among them on the issue ; and

(e) submit annual report to the Central Government on the working.

(2) The nodal officer designated by the State Government under sub-rule (2) of rule 3 shall.-

(a) maintain and update a register of statistics officers appointed from time to time in the State;

(b) obtain and maintain from time to time information on availability of statistics including unit-level data, whether collected under the provisions of the Act or not, with different Government Departments and local governments in the State;

(c) advise the Departments of the State Government and local governments in the State on steps to improve the statistical potential of administrative records to avoid conducting separate statistical surveys to collect statistics contained or purported to be contained in such administrative records ;

(d) issue instructions from time to time on promoting the sharing of statistical information including unit-level data among Departments of the State Government and local governments in the State to avoid unnecessary duplication of programmes of collection of statistics and resolve disputes or differences of opinion, if any, among them on the issue ; and

(e) obtain reports, as may be required, on the working of this Act from Government Departments and local governments in the State and submit annual reports on the working of this Act in the State to the nodal officer appointed by the Central Government.

5. **Direction on collection of statistics. -** (1) Any Department in a State Government or any local government in a State shall, before making a direction under section 3 of the Act for collection of statistics on any subject for any reference period in any geographical unit under its jurisdiction, consult the nodal officer in the State to avoid unnecessary duplication in collection of statistics.

(2) Any Department of the Central Government shall, before making a direction under section 3 of the Act for collection of statistics on any subject for any reference period in any geographical unit under its jurisdiction, consult the nodal officer of the Central Government to avoid unnecessary duplication in collection of statistics.

(3) The nodal officer shall, on receipt of any request under sub-rule (1) or sub-rule (2) , as the case may be within a period of one month render such advice as may be necessary to the concerned office to avoid unnecessary duplication in collection of statistics.

(4) The appropriate Government on receipt of advice under sub-rule (3) shall communicate to the nodal officer, the reasons in all cases of disagreement with such advice, at least fifteen days prior to issuing notification under section 3 of the Act.

(5) Every notification under section 3 of the Act shall contain the following particulars, namely:-

(a) subject and purpose for collection of statistics;

(b) geographical area for collection of statistics;

(c) method of data collection;

(d) nature of informants from whom data may be collected;

(e) period during which collection of statistics may be completed;

(f) reference period;

(g) nature of information to be collected ;

(h) language in which information is to be furnished by informant ;

(i) obligation of informant ;

(j) nature of business records and other records which may be inspected ; and

(k) the manner of inspection.

(6) A copy of every notification referred in sub-rule (5) shall be forwarded to the nodal officer of the Central Government and the nodal officer of the State concerned.

6. **Principles for prescribing information schedules.-**In respect of prescribing any information schedule for collection of statistics on any subject, the appropriate Government or a statistics officer, as the case may be, shall satisfy itself that :-

(i) it has authority to direct collection of statistics on the subject under the Act subject to the restrictions given in the proviso to section 3 of the Act;

(ii) it has, for the purpose of finalising items on which information is to be collected, consulted the nodal officer to include the requirements of other Government Departments;

(iii) excessive demands would not be placed on the informants by making the direction and for the purpose field testing of information schedules has been carried out where necessary;

(iv) the range and detail in the information schedules specified for collection of statistics on any subject shall be limited to what is absolutely necessary;

(v) the reporting burden shall be spread as widely as possible over informant populations through appropriate sampling;

(vi) the information sought from business shall, as far as possible, be readily available from their accounts and electronic means are used where possible to facilitate their collection;

(vii) best estimates and approximations on any item of information sought shall be accepted when exact details are not readily available with any informant;

(viii) each information schedule used for collecting statistics from any informant has, where necessary, a provision for particulars on which information may be furnished at the discretion of the informant;

(ix) provision is made in each information schedule for filling up the details and appending the signature of the person concerned who would be engaged in the collection of statistics;

(x) indicate in each information schedule, for general information of informants prior to collection of statistics from them under the Act, its plan, if any to disclose any information collected from them which in the opinion of the appropriate Government is otherwise available to the public under any other Act or as a public document or which is in the form of an index or list of the names and addresses of informants together with the classification, if any, allotted to them and the number of persons engaged ; and

(xi) make a provision in each information schedule to obtain written consent from each informant whose information other than the information covered in clause (x), it proposes to disclose.

7. **Appointment of statistics officers.- (**1) Every notification under section 4 of the Act appointing the statistics officer shall contain the following particulars, namely :-

(a) name, designation and address of the officer appointed as statistics officer for each geographical unit for collection of statistics;

(b) details of any agency or company or organisation or association or person engaged for collection of statistics, and terms and conditions of engagement and safeguards laid down for the purpose;

(c) the form and the particulars required or the interval within which, and the statistics officer to whom, the statistical information by the informants shall be furnished; and

(d) the powers, if any delegated under sub-sections (4) or (6) of section 4 the Act to any statistics officer.

(2) Every statistics officer, immediately on his appointment, shall submit an undertaking in Form-I to the appropriate Government.

8. **Registration of statistics officers.-**The appropriate Government shall maintain a record of statistics officers in respect of their appointment, their terms and geographical areas for which they bave been appointed, in Form-II.

9. **Powers and functions of a statistics officer.-** A statistics officer, appointed for the purposes of collection of statistics on any subject in any geographical unit, shall.-

(i) take, aid in and supervise the collection of statistics;

(ii) cause agencies to be appointed or engaged for collection of statistics;

(iii) obtain undertaking from all the persons engaged in the collection of statistics in From-I and forward them to the appropriate Government or to an officer authorised for the purpose by that Government;

(iv) devise or cause to devise relevant information schedules and the mode or modes of collection of statistics;

(v) allot or cause to allot work of collection of statistics in his jurisdiction to different persons and agencies engaged for the purpose ;

(vi) provide all the relevant material to be distributed at agencies engaged and arrange for their training for facilitating collection fo statistics ;

(vii) cause to provide necessary publicity for collection of statistics at an appropriate time ;

(viii) coordinate the work of all agencies during the period of collection of statistics and maintain liaison with local authorities for smooth conduct of the collection of statistics ;

(ix) cause notices to informants for furnishing information issed under his signature, where necessary and cause acknowledgements received from such informants, to be kept in safe custody ;

(x) take steps, in case of statistical surveys having the same set of informants with different reference periods, to issue only one notice to each informant indicating therein the information required to be furnished and the reference periods for which the information is required ;

(xi) cause entry of persons authorsied by him in writing and carrying a photo-identity card issued by him into any premises of any informant for collection of statistics ;

(xii) cause necessary assistance provided to informants requiring such assistance for furnishing the information sought ;

(xiii) cause access to any informant to the information collected from that informant for facilitating intimation of corrections or amendments on any inaccurate information ;

(xiv) cause verification of information furnished by any informant ;

(xv) based on complaints or otherwise, take action against erring persons and others in accordance with the provisions of the Act and these rules ;

(xvi) obtain from the agencies engaged in the collection of statistics, all the information schedules, all the undertakings obtained from persons engaged in collection of statistics, all other relevant records and documents on completion of their work and forward them with a certificate to that effect to the appropriate Government or to any officer authorised by that Government ;

(xvii) carry out such other tasks as may be necessary for the successful collection of statistics ; and

(xviii) submit periodical reports as may be specified by the appropriate Government.

10. Assistance in collection of statistics.- (1) Every Department of the Central Government or the State Government or the local governments shall furnish within such time and in such form as required, the list of informants and other information which is available with them, relevant for conducting any statistical survey under these rules to a statistics officer or any agency or person authorised by the appropriate Government upon receipt of a notice to that effect.

(2) The appropriate Government or a statistics officer, as the case may be, may write to any Department of the Central Government or the State Government or any local government specifying the nature of assistance required for collection of statistics under the Act and upon receipt of such communication, the latter shall comply with the requirement to the extent feasible.

(3) In cases of collection of statistics in disturbed areas, the police, the paramilitary and the armed forces shall provide such assistance as would be required by the concerned statistics officer.

11. Duty to furnish information.- Subject to the provisions of section 6 of the Act,

(1) every informant shall, on demand, produce or give a copy of any books of accounts, vouchers, documents, or other business records or personal records or documents in his possession relevant to collection of statistics under the Act to any statistics officer or any person authorised by him in writing and carrying a photo-identity card issued by him, and the statistics officer or the authorised person, as the case may be, may take a copy or extract of such record or document ; and

(2) the head of every family shall be responsible to furnish or cause to furnish the correct details of name and number of members, other particulars, records and documents, as may be required, of the family of which he is the head including dependants:

provided that in so far as inmates of institutions, such as orphanages, old age homes, and mental asylums are concerned, the responsibility for providing or causing to provide the requisite details, records and documents shall lie with the head of the Institution.

12. General terms, conditions and safeguards for outsourcing.-Every contract or arrangement for collection of statistics under the Act by any person or agency or company or organisation or association shall be subject to the following terms, conditions, and safeguards, namely :

(a) outsourcing arrangements shall be subject to a formal and comprehensive written contract ;

(b) functions which are to be decided and enforced by the appropriate government under the Act shall not be outsourced ;

(c) appropriate Government or a statistics officer authorised for the purpose by that Government shall have a right, of information and conduct or order on-site inspections in an outsourcing service provider's premises or place of work and right to cancel contract in case of unsatisfactory performance ;

(d) every agency, engaged in collection of statistics, shall render such help and assistance and furnish such information to the statistics officer or a person or an agency authorised by him in writing, as he may require for the discharge of his functions, and shall make available for Inspection and examination such records, plans and other documents, as may be necessary;

(e) persons engaged by any agency for collection of statistics, are made aware of the agency's obligations, and they shall submit a written undertaking in Form-I to the concerned statistics officer not to access, use, disclose or retain personal information except in performing their duties of employment or contractual obligations ; and are informed that failure to comply with the provisions of the Act and these rules may be an offence rendering themselves for punishment as per the provisions of the Act ;

(f) each person engaged in any activity relating to the collection of statistics shall be bound by the provisions of the Act and these rules, the violation of which shall render him punishable as per the provisions of the Act;

(g) provisions relating to disclosure of information and restrictions of their use under sections 9, 10,11,12, 13 and 14 of the Act and these rules shall have effect during the period of collection of statistics provided in the contract and shall continue to have effect even after the termination or completion of the contract, as the case may be;

(h) the appropriate Government or any statistics officer on receipt of any complaint shall immediately communicate the agency engaged in collection of statistics of only those details of the complaint, as may be necessary to minimize any breach or prevent further breaches of the agreement or failure to comply with any of the provisions of the Act or these rules;

(i) if any agency engaged in collection of statistics receives any complaint from and informant, it shall immediately communicate the complaint to the appropriate Government or the concerned statistics officer, as may be required;

(j) the appropriate Government or the statistics officer may, on receipt of any communication under clauses (h) or (i), give directions as may be necessary, to the agency; and

(k) the statistics officer and every person engaged in the collection of statistics shall, on completion of their work, handover all the records and documents and furnish a certificate to that effect to the appropriate Government or to an officer authorised for the purpose by that Government.

13. Restrictions on use of personal information.-Each agency engaged in collection of statistics shall take all reasonable measures to ensure that –

(a) personal information is protected against unauthorised access, disclosure of other misuse;

(b) the agency uses personal information only for the purpose of fulfilling its obligations under a specified contract ;

(c) in case of repetitive statistical surveys with a common set of informants, the agency uses the personal information earlier collected only for the purpose of setting up interviews with or otherwise contacting informants; and

(d) the agency uses personal information for data processing only with adequate security checks.

14. Right of entry into any premises of Informants.-A statistics officer or any person authorised by him in writing and carrying a photo-identity card issued by the statistics officer, shall during the period of collection of statistics for the purpose of collection of statistics under the Act or for inspection and examination of records, and documents in connection with it, during 10.00 hrs to 17.00 hrs on any day or at a time mutually convenient to both the parties have the right to enter the premises of any informant in the portion of the premises normally entered by visitors or guests or as suggested by the informant.

15. Processing of complaints.-(1) In cases of alleged offences committed by any informant as per provisions of the Act, any statistics officer, after making such inquiries as deemed fit, may cause a notice issued to the informant in writing to show cause within a reasonable period to be specified in the notice as to why prosecution under the Act shall not be sanctioned for committing the alleged offence.

(2) A statistics officer shall consider the explanation, if any, furnished by the informant in pursuance to the notice issued under sub-rule (1), and after satisfying himself, for reasons to be recorded in writing, sanction for institution of prosecution of the informant.

(3) In case of any alleged offences committed by any person other than an informant, the appropriate Government may, after making such inquiries as deemed fit, cause a notice issued to the person in writing to show cause within a reasonable period to be specified in the notice as to why prosecution under the Act shall not be sanctioned for committing the alleged offence.

(4) The appropriate Government may, if it considers necessary, send a copy of the show-cause notice issued under sub-rule (3) of this rule and the explanation, if any, received from the alleged offender to the concerned statistics officer and obtain his recommendation on it, and after considering the explanation of the alleged offender and recommendation of statistics.

16. Storage of data and records.-Subject to the provisions of section 13 of the Act, the appropriate Government or an officer authorised by that Government shall, provide details by which any informant could access his own information for facilitating intimation of corrections or amendments on any inaccurate information, store the statistics collected under the provisions of the act in such a manner as would facilitate easy retrieval of information collected from any informant so as to provide access to the informant, if necessary and keep all the undertakings and other material obtained from the statistics officers and other persons or agencies engaged in collection of statistics in safe custody.

Form - I

[See rules 7 (2), 9 (iii), 12 (e)]

Undertaking by statistics officer and other persons to be engaged in any capacity for collection of statistics under the provisions of the Collection of Statistics Act, 2008 (7 of 2009)

I, ……………………………..(Full Name), born on ……………….. (Date of birth), son/daughter/wife of ……………… (Name of person) resident of ……………… (address) do hereby solemnly affirm, that I accept the responsibility ………………….. (nature of work) assigned to me for collection of statistics in respect of ……………… (direction under section 3 of the Act) under the Collection of Statistics Act, 2008 (7 of 2009) and the Collection of Statistics Rules, 2011, that I shall not access, use, disclose or retain personal information of any informant except in performing my duties of employment of contractual obligations in respect of collection of statistics, and that in case of any violation on my part to comply with the provisions of the Act and the rules made thereunder, and I shall render myself punishable as per the provisions of the Act.

Place :

Date :

Signature of statistics officer or the person

engaged in any capacity for collection of statistics.

Form - II

(See rule 8)

Register of statistics officers to be maintained by the appropriate Government.

1. Details of the direction issed under section 3 of the Collection of Statistics Act, 2008 :
2. Name and address of the appropriate Government making direction :
3. Details of statistics officers appointed for collection of statistics under the aforesaid direction :

Sl. No.	Name of statistics officer	Permanent address	Educational qualifications and experience, if any, in collection of statistics	Geographical unit for which appointed and period of appointment	Powers, if any delegated under section 4 (4) and (6) of the Act	Date of appointment	Date of termination of appointment
1	2	3	4	5	6	7	8

Place :

Date :

Signature with office seal of the officer responsible for
maintaining the record of statistics officers

[F.No. M-15011/1/2007-Admn. III]

P.R. No. 21

Prof. T.C.A. ANANT, Secy.